

## REMARKS

Claims 1-7 and 13-19 are pending in the present application.

In the Office Action, claims 1-7 and 13-19 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Sipola (WO 00/45543). The Examiner's rejections are respectfully traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). Second, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. That is, there must be something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). Third, there must be a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142.

Applicants respectfully submit that the cited reference fails to teach or suggest all the limitations of the invention set forth in the pending claims and also fails to provide any suggestion or motivation for modifying the prior art of record to arrive at the claimed invention. Furthermore, Applicants respectfully submit that the techniques described in the references cited by the Examiner suffer from the same deficiencies as the conventional techniques described in the specification of the present Patent Application and therefore the prior art of record provides no reasonable expectation of success.

Independent claim 1 sets forth a method for receiving information in a communication system that uses automatic repeat request (ARQ) with incremental redundancy (IR). The method may include deciding which of a plurality of confirmation messages to transmit based on an information status flag indication contained in the received information and a decoding operation performed on the received information. The method therefore provides a technique for recovering from misinterpretation of a previous confirmation message transmission.

Sipola describes techniques for combining received data blocks transmitted in an incremental redundancy communication system. For example, if a receiver successfully receives and decodes a data block, then a positive acknowledgment message may be returned to a transmitter. However, if the receiver fails to successfully receive and decode a particular data block, then the receiver returns a negative acknowledgment to the transmitter device, thereby requesting retransmission of the data block that was not successfully received and/or decoded. A flag T may be used to indicate whether each transmitted block is an originally transmitted block or a retransmitted block. See Sipola, page 12, line 12 – page 13, line 10 and Figure 3.

The Examiner admits that Sipola does not explicitly describe checking the flag T but alleges that the flag T must be checked in order to recognize whether the block is a retransmitted block. However, Applicants respectfully submit that Sipola fails to teach or suggest deciding which of a plurality of confirmation messages to transmit based on an information status flag indication contained in the received information and a decoding operation performed on the received information. To the contrary, Sipola teaches that positive or negative acknowledgments are selected and transmitted based exclusively upon the success or failure of the decoding operation, regardless of whether the flag T is checked to determine whether a block is a retransmitted block. See, *e.g.*, steps S13 and S20 in Figure 4 of Sipola. Thus Applicants

respectfully submit that Sipola fails to teach or suggest all the limitations of the claimed invention.

The technique described in Sipola also suffers from the same deficiencies as the conventional techniques described in the specification. For example, the method described in Sipola will attempt to transmit a negative acknowledgment if it determines (at S13 or S20) that an attempt to receive a transmitted block failed. However, if some error, corruption, or misinterpretation causes a positive acknowledgment to be transmitted or received by the transmission device, then the block will not be retransmitted. For another example, the method described in Sipola will attempt to transmit a positive acknowledgments if it determines (at S13 or S20) that the attempt to receive a transmitted block succeeded. However, if some error or corruption causes a negative acknowledgment to be transmitted or received by the transmission device, then the block will be retransmitted, even though the receiver is expecting a new block to be transmitted. Thus, Applicants respectfully submit that the prior art of record fails to provide any expectation that the problems addressed by the present application can be solved using the subject matter described in the prior art.

For at least the affirmation reasons, Applicants respectfully submit that the Examiner has failed to make a *prima facie* case that the present invention is obvious over the prior art of record. Applicants request that the Examiner's rejections of claims 1-7 and 13-19 under 35 U.S.C. § 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date: October 2, 2006

/Mark W. Sincell/

Mark W. Sincell, Ph.D.

Reg. No. 52,226

Williams Morgan & Amerson, P.C.

Customer ID No. 23720

10333 Richmond Avenue, Suite 1100

Houston, TX 77042

(713) 934-7000

(713) 934-7011 (Fax)

AGENT FOR APPLICANTS